

May 9, 1975

PRESIDENT: The bill is advanced.

CLERK: LB 468 introduced by Senator Bereuter. Read bill.

PRESIDENT: Senator Fowler.

SENATOR FOWLER: Mr. President, members of the Legislature, we adopted these committee amendments and subsequently found out that we did not need them. I could either move to reject them or we could have 5 vote for them and they could be killed or something like that. Vince is it possible to withdraw the committee amendments, or do they have to be rejected? I move to reject the committee amendments.

PRESIDENT: All those in...record your vote. Record.

CLERK: 25 ayes, 0 nays and 24 not voting.

PRESIDENT: Amendments are rejected. Senator Bereuter.

SENATOR BEREUTER: Mr. President, colleagues, the purpose of this legislation which now as originally drawn relates only to the first, second class and villages. It is to provide that there is an appeal with the board of equalization which is the city council or village board serving as a judicial body to review and assign benefits on a special benefit district as a water district or a curb and gutter district or a paving district. To provide that there is an appeal procedure to the District Court and that the case could be tried de nova in that situation. Presently there is an appeal procedure but you can only take into account the material presented before the board of equalization. I want to just briefly tell you why that is not satisfactory and why we had some problems out state. There are about three overriding factors. First many council members are not versed in the rules of evidence. Secondly many councils or board members are part time and have other employment and simply do not have the amount of time necessary for an appropriate and fully developed hearing before the board of equalization. Third, their determination is primarily judicial and could be subject to judicial review. There are few city administrators who are not too enthusiastic about this bill. There are others that believe that it is quite alright. The important to me is to consider how this might affect property owners. I believe that property owners ought to have the right to appeal before the district court and that their council ought to be able to present full factors which ought to be considered by a court not just the factors that were presented by the board of equalization. Keep in mind that the full notes of the testimony before the board of equalization in small communities in this state are not transcribed. Therefore very little information is available to attorneys who would represent property owners before a district court. I ask for the advancement of this bill.

PRESIDENT: Senator DeCamp.